

ASSEMBLY BILL

No. 1013

Introduced by Assembly Member Garcia

February 22, 2005

An act to amend Section 36512 of the Government Code, relating to local elected officials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1013, as introduced, Garcia. Local elected officials: vacancy: appointment.

Existing law provides that if a vacancy occurs in an elective office of a general law city, the city council shall, within 30 days, either fill the vacancy by appointment or call a special election to be held within 114 days.

This bill would instead provide that the city council shall fill the vacancy within 30 days by appointment of the person who received the 3rd-highest number of votes in the prior election for that office. If that person does not exist, cannot be appointed, or will not accept the appointment, the council shall then call a special election to be held within 114 days.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 36512 of the Government Code is
- 2 amended to read:
- 3 36512. (a) If a vacancy occurs in an appointive office
- 4 provided for in this chapter, the council shall fill the vacancy by

1 appointment. A person appointed to fill a vacancy holds office
2 for the unexpired term of the former incumbent.

3 (b) If a vacancy occurs in an elective office provided for in
4 this chapter, the council shall, within 30 days from the
5 commencement of the vacancy, ~~either~~ fill the vacancy by
6 appointment ~~or of the person who received the third-highest~~
7 *number of votes at the previous election for that office. If that*
8 *person does not exist, cannot be appointed, or will not accept the*
9 *appointment, the council shall then* call a special election to fill
10 the vacancy. The special election shall be held on the next
11 regularly established election date not less than 114 days from
12 the call of the special election. A person appointed or elected to
13 fill a vacancy holds office for the unexpired term of the former
14 incumbent.

15 (c) Notwithstanding subdivision (b) and Section 34902, a city
16 may enact an ordinance which:

17 (1) Requires that a special election be called immediately to
18 fill every city council vacancy and the office of mayor designated
19 pursuant to Section 34902. The ordinance shall provide that the
20 special election shall be held on the next regularly established
21 election date not less than 114 days from the call of the special
22 election.

23 (2) Requires that a special election be held to fill a city council
24 vacancy and the office of mayor designated pursuant to Section
25 34902 when petitions bearing a specified number of verified
26 signatures are filed. The ordinance shall provide that the special
27 election shall be held on the next regularly established election
28 date not less than 114 days from the filing of the petition. A
29 governing body which has enacted such an ordinance may also
30 call a special election pursuant to subdivision (b) without waiting
31 for the filing of a petition.

32 (3) Provides that a person appointed to fill a vacancy on the
33 city council holds office only until the date of a special election
34 which shall immediately be called to fill the remainder of the
35 term. The special election may be held on the date of the next
36 regularly established election or regularly scheduled municipal
37 election to be held throughout the city not less than 114 days
38 from the call of the special election.

39 (d) (1) Notwithstanding subdivision (b) and Section 34902, an
40 appointment shall not be made to fill a vacancy on a city council

1 if the appointment would result in a majority of the members
2 serving on the council having been appointed. The vacancy shall
3 be filled in the manner provided by this subdivision.

4 (2) The city council may call an election to fill the vacancy, to
5 be held on the next regularly established election date not less
6 than 114 days after the call.

7 (3) If the city council does not call an election pursuant to
8 paragraph (2), the vacancy shall be filled at the next regularly
9 established election date.

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